

Application No. 10/697,647
Amendment under 37 C.F.R. §1.111 dated January 19, 2005
Response to the Office Action of October 19, 2004

REMARKS

Reconsideration of this application, as presently amended, is respectfully requested. Claims 1 - 12 are now pending in the present application. Claims 11 and 12 are allowed. Claims 1 and 5 - 9 stand rejected. Claim 10 was objected to. Claims 2 - 4 were objected to as being dependent upon a rejected base claim, but were indicated allowable if rewritten in independent form. The rejections set forth in the Office Action are respectfully traversed below.

Objection to the Abstract

The Abstract of the Disclosure was objected to because it exceeds 150 words in length. The Abstract has been replaced with a new Abstract that is less than 150 words, in accordance with preferred U.S. practice.

Withdrawal of the objection to the Abstract is respectfully solicited.

Objection to the Drawings

Fig. 12 was objected to because of a misspelling. Fig. 12 has been amended to overcome this objection. A replacement corrected formal drawing sheet for Fig. 12 is attached.

The drawings were also objected to under 37 C.F.R. §1.83(a) for allegedly not showing every feature of the invention specified in the claims. Specifically, the Office Action asserts that the "accelerator" recited in claims 1, 11 and 12 is not shown in the drawings. Claims 1, 10 and 11 have been amended hereby to delete reference to the "accelerator" and to recite "an objective

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lens.” It is believed that every feature of the invention specified in the claims is now shown in the drawings.

Withdrawal of the objection to the drawings is respectfully solicited.

Requirement for Substitute Specification

On page 4, item 7, of the Office Action, a substitute specification was required because the Examiner alleges “the existence of numerous broken words therein (i.e. page 4, line 3, “ceramic s,” etc.).”

Page 4, line 3 of Applicant’s copy of the specification clearly reads “a top surface of the *ceramic seat* 109 such that it is” [emphasis added]. In other words, there are no broken words shown in Applicant’s copy of the specification as filed. Therefore, the Examiner is respectfully requested to review the paper copy of the application as originally filed, and, if the errors noted by the Examiner are found to exist in the copy of the application as originally filed, the Examiner is requested to contact Applicants to resolve this issue. In other words, because Applicant’s copy of the specification does not contain the “numerous broken words” referred to by the Examiner it is Applicant’s belief that the “numerous broken words therein” may have been caused by a scanning error in the Image File Wrapper produced by the Patent Office.

Therefore, for the reasons set forth above, it is respectfully submitted that a substitute specification is unnecessary at this time, and the requirement for a substitute specification should be held in abeyance until the source of the alleged errors in the specification is determined.

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Claim Objections

Claims 1, 2, 3 4, 5, 6, 8, and 11 were objected to for minor informalities. Claims 1, 2, 3 4, 5, 6, 8, and 11 have been amended to overcome these objections.

Withdrawal of the objection to claims 1, 2, 3 4, 5, 6, 8, and 11 is respectfully solicited.

Claim 10 was also objected to under 37 C.F.R. §1.75(c) for being in improper dependent form. Claim 10 has been amended hereby to place claim 10 in independent form and to recite an apparatus, instead of a method.

In view of the amendment to claim 10, withdrawal of the objection to claim 10 is respectfully requested.

Claims Rejections – 35 U.S.C. §112

Claims 5 - 9 are rejected under 35 U.S.C. §112, second paragraph, for indefiniteness. More specifically, on page 6, items 10 and 11 of the Office Action, the Examiner asserts that the recitation “wherein a portion of said Wehnelt member ... orthogonal to one another” in claim 5, lines 4-7, renders the claim indefinite. Claim 5 has been amended to obviate the §112, second paragraph, rejection. Reconsideration and withdrawal of the rejection under §112, second paragraph, are respectfully requested.

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Claim rejections - 35 U.S.C. § 103

Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over **Yamazaki et al.** (USP 6,038,018) in view of **Nakasuji** (USP 5,892,224). For the reasons set forth in detail below, this rejection is respectfully traversed.

Claim 1 has been amended hereby to include the features recited in dependent claim 4, which was indicated to be allowable if rewritten in independent form. In view of the amendment to claim 1 to include the allowable features of claim 4, it is submitted that claim 1 is now in condition for allowance. Therefore, it is respectfully submitted that claim 1 and claims 2 – 4, which depend therefrom, are now in condition for allowance.

Further, it is noted that claims 5 - 9 were not rejected over prior art or indicated to be allowable because claim 5 is considered “defective.” Moreover, claim 10 was not rejected over prior art or indicated to be allowable because it was considered to be “not proper.” It is noted that claims 5 - 9 were rejected under 35 U.S.C. §112, second paragraph. Further, it is noted that claim 10 was objected to under 37 C.F.R. §1.75(c). However, it is noted that the Examiner is required to issue a complete examination of the claims (37 C.F.R. §1.104), which examination should include rejection in view of prior art (MPEP 2143.03). More particularly, even if the claims are considered indefinite, the Examiner is required to issue a rejection in view of the prior art to the extent the claims are understood.

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Therefore, it is respectfully requested that the Examiner either issue an indication of allowability of claims 5 – 10 or issue a subsequent non-final Office Action which rejects the claims over prior art.

As indicated on page 8, item 16 of the Office Action, claims 11 - 12 were allowed. Therefore, in view of the above amendments and remarks, it is respectfully submitted that all the claims are now in condition for allowance.

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CONCLUSION

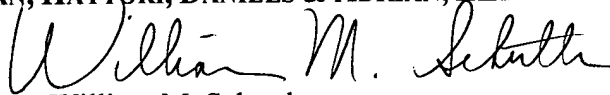
In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

In the event that any fees are due in connection with the filing of this paper, please charge any fees to Deposit Account No. 50-2866.

Respectfully submitted,

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WMS/kal
Enclosure: Replacement Figure 12

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AMENDMENTS TO THE DRAWINGS:

The attached replacement sheet of drawings includes changes to Fig. 12. Figure 12 has been amended to change “ANNEALNIG” to “ANNEALING.”